

Message Text

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C O N F I D E N T I A L STATE 220661

CORRECTED COPY-PORTION OF TEXT OMITTED ORIGINAL TRANSMISSION

E.O. 11652: GDS

TAGS: EFIS, PP, XU

SUBJECT: FURTHER THOUGHTS ON TUNA LICENSING AND PNG
DESIRE FOR BILATERAL FISHING AGREEMENT.

REF: (A) PORT MORESBY 1252, (B) PORT MORESBY 1275,
(C) STATE 206734

1. QUESTION OF LICENSING TUNA FISHING IN PNG ZONE MUST BE
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EXAMINED IN CONTEXT OF TWO SEPARATE SITUATIONS. AT PRESENT
TIME, AND UNTIL SPFRO ESTABLISHED AND SPECIFIC LICENSING
PROGRAM WORKED OUT BY MEMBER STATES, QUESTION OF LICENSES
PURCHASES BY U. S. TUNA VESSELS, IS, AS EMBASSY AWARE, A
DECISION TO BE MADE VOLUNTARILY BY U.S. TUNABOAT OWNERS
AND CAPTAINS. IF PNG WILLING TO SELL LICENSES, WE BELIEVE
PROBLEM BETWEEN GOVERNMENTS WILL NOT ARISE SINCE MOST BOAT

OWNERS WILL PROBABLY PURCHASE LICENSES. PNG INSISTENCE ON BILATERAL FISHERIES AGREEMENT AS PREREQUISITE FOR LICENSING, WOULD PRESENT US WITH SERIOUS PROBLEM AND COULD RESULT IN POSSIBLE CONFRONTATION IF U.S. VESSELS DECIDE TO FISH WITHOUT LICENSES. DEPT. AGREES WITH POINTS MADE BY EMBASSY PAR. 3 REFTEL (B) REGARDING SOVEREIGNTY ISSUE. WE DO NOT UNDERSTAND PNG ARGUMENT THAT SELLING LICENSES IS DEROGATION OF SOVEREIGNTY.

IN EASTERN PACIFIC REGION, LICENSE SALES FOR TUNA HAVE BEEN VIEWED AS AN EXERCISE OF SOVEREIGNTY BY THOSE NATIONS WITH MOST EXTREME JURIDICAL VIEWS ON SUBJECT, SUCH AS ECUADOR AND PERU. THESE NATIONS AND OTHERS, WHICH WERE THE EARLIEST ADVOCATES OF 200-MILE TERRITORIAL SEAS, HAVE BEEN SELLING LICENSES FOR TUNA, WITHOUT ANY BILATERAL OR MULTILATERAL AGREEMENT, FOR DECADES.

2. OTHER SITUATION ARISES ONCE SPFRO ESTABLISHED. US VIEW ON HOW LICENSING PROGRAM MIGHT WORK UNDER AUSPICES OF SPFRO IS NOT AT ALL COMPLICATED AND IS AS FOLLOWS: ACCORDING TO A SPECIFIC PROGRAM TO BE WORKED OUT BY MEMBER STATES, LICENSES WOULD BE ISSUED BY ORGANIZATION, ACTING ON BEHALF OF COASTAL STATES, AND WOULD BE VALID FOR FISHING THROUGHOUT REGION, INCLUDING WITHIN 200 MILE ZONES OF

MEMBER STATES. SPRFO COULD NOT, OF COURSE, ISSUE LICENSES
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VALID IN A NATION'S ZONE AGAINST ITS WISHES, BUT THESE MATTERS WOULD BE WORKED OUT BEFOREHAND IN SPRFO. FEE FOR LICENSE, WHICH WOULD BE A NEGOTIATED AMOUNT, WOULD BE PAID TO ORGANIZATION AND THEN DISTRIBUTED TO MEMBER STATES ACCORDING TO AN AGREED FORMULA, POSSIBLY IN PROPORTION TO AMOUNT OF CATCH TAKEN WITHIN 200 MILES OF EACH COUNTRY. A NUMBER OF DETAILS WOULD HAVE TO BE WORKED OUT, BUT IN PRINCIPLE THIS IS HOW WE ENVISION A REGIONAL LICENSING SYSTEM WORKING UNDER SPFRO AND IS ALONG LINES DISCUSSED AND IN PRINCIPLE AGREED TO, BY NATIONS INVOLVED IN EASTERN PACIFIC FISHERY. DURING DISCUSSIONS WITH FISHERIES DIRECTOR WILSON HELD IN WASHINGTON DEPT OFFICIALS OUTLINED IN GENERAL TERMS OUR VIEWS ON THIS MATTER, AND WILSON STATED HE HAD NO PROBLEM WITH THE CONCEPT. HE STATED THAT PNG WANTED THE FINAL DETERMINATION RESERVED TO THE COASTAL STATE, BUT THAT THIS COULD BE AGREED IN THE CONTEXT OF THE ORGANIZATION. HE STATED THAT SPFRO COULD ACT AS THE AGENT OF A PNG IN ISSUANCE OF LICENSES AND COLLECTION OF FEES.

3. FOLLOWING IS TEXT OF PROPOSAL TABLED BY USG IN EASTERN PACIFIC TUNA NEGOTIATIONS FOR EMBASSY INFO AND BACKGROUND:

BEGIN TEXT: ANNEX C. LICENSING.

1. THE CONTRACTING PARTIES AGREE THAT TUNA VESSELS FLYING THEIR FLAGS SHALL, BEFORE FISHING IN THE CYRA, FIRST OBTAIN AN ANNUAL LICENSE ISSUED BY THE COMMISSION. THE CONTRACTING PARTIES AGREE THAT SUCH A LICENSE WILL SERVE AS A GUARANTEE OF FISHING ACCESS FOR THE VESSELS OF ANY MEMBER

COUNTRY TO THE ENTIRE CONSERVATION AREA OF THE COMMISSION, BEYOND TWELVE MILES FROM THE COASTS OF MEMBER COUNTRIES, SO LONG AS SUCH VESSELS ARE FISHING IN ACCORDANCE WITH THE COMMISSION'S CONSERVATION AND MANAGEMENT PROGRAM AGREED TO BY ALL MEMBER COUNTRIES.

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2. IN ORDER TO OBTAIN A LICENSE ISSUED BY THE COMMISSION, A FEE SHALL BE PAID IN THE AMOUNT OF (BLANK) DOLLARS PER NET REGISTERED TON.

3. TWENTY PERCENT OF THE TOTAL VALUE OF THE MONIES COLLECTED BY THE COMMISSION SHALL BE RETAINED BY THE COMMISSION FOR USE TOWARDS ADMINISTRATIVE EXPENSES. THE REMAINDER OF THE MONIES COLLECTED SHALL BE DISTRIBUTED TO THE COASTAL STATE MEMBERS OF THE COMMISSION ACCORDING TO WHATEVER FORMULA IS AGREED BY THOSE STATES.

4. LICENSES SHALL NOT BE REQUIRED FOR FISHING BEYOND THE COMMISSION'S YELLOWFIN REGULATORY AREA (CYRA).

5. THE SPECIES OF TUNA TO WHICH THESE LICENSING REQUIREMENTS APPLY INCLUDE YELLOWFIN, SKIPJACK, BLUEFIN, ALBACORE AND BIGEYE. END OF TEXT.

4. DEPT LEAVES TO EMBASSY DISCRETION BEST METHOD OF PERSUADING PNG NOT TO INSIST ON BILATERAL AGREEMENT AND TO MAKE LICENSES AVAILABLE DURING INTERIM PERIOD BEFORE SPFRO ESTABLISHED. WE WOULD NOT, OF COURSE, WANT TO TAKE ANY ACTION WHICH MIGHT CAUSE PNG TO CHANGE ITS MIND WITH RESPECT TO PARTICIPATING IN SPFRO, AND GIVEN CURRENT STATE OF PLAY, BEST APPROACH MIGHT BE TO DO NOTHING. WILSON AND DABB ARE BOTH WITH US ON THIS ONE, AND THEY ARE IN BETTER POSITION TO CONVINCE MINISTERS THAN WE ARE. WE BELIEVE THAT ONCE SPFRO ESTABLISHED WAY CAN BE FOUND TO AVOID SOVEREIGNTY PROBLEM IN ESTABLISHMENT OF REGIONAL LICENSING SYSTEM. INDEED, IT HAS BEEN OUR ASSUMPTION THAT ONE OF MAIN PURPOSES OF CREATING SPFRO IS TO FIND WAY AROUND POSSIBLE LEGAL CONFRONTATION WHICH

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COULD RESULT FROM DIFFERING JURIDICAL POSITIONS OF
JURISDICTION OVER TUNA. IF PNG REACTION TO SOVEREIGNTY
ARGUMENTS IS INFLEXIBLE AND EMOTIONAL, PERHAPS BEST
COURSE FOR EMBASSY TO TAKE WOULD BE TO STRESS IMPORTANCE
OF BEHAVING IN A PRACTICAL FASHION AT THIS TIME IN THE
INTEREST OF PRESERVING FUTURE AMICABLE FISHERIES

RELATIONSHIP AND OF AVOIDING POSSIBLE CONFRONTATION WHICH
WOULD NOT BE IN THE INTEREST OF EITHER OF OUR GOVERN-
MENTS. CHRISTOPHER

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